

TOWNSHIP OF OCEAN
PLANNING BOARD
REGULAR MEETING
June 2, 2011

Meeting began at 7:02 PM

The meeting of the Township of Ocean's Planning Board was held on the above date and time. The meeting was called to order.

Pledge of Allegiance

STATEMENT: Pursuant to the provisions of the New Jersey Open Public Meetings Act, sending copies of the notice of the meeting properly provided adequate notice of the meeting to the Press of Atlantic City and the Asbury Park Press. Notice was posted on the bulletin board in the Administration Building.

ROLL CALL

Members Present: Anepete, Avellino, Bynoe, Eckert, Knowles, Lachawiec, Sneddon, Sweeney, Tredy, Bonamassa

Members Absent: James

Professionals Present: Scott Taylor, Wayne McVicar and Steve Yost.

Chairman Anepete asked for a motion to take action on the minutes of the Regular Meeting of May 5, 2011. Mr. Avellino made the motion to approve the minutes. Mr. Eckert seconded the motion. Roll Call: (aye) Avellino, Eckert, Bynoe, Knowles, Sneddon, Bonamassa.

Chairman Anepete asked for a motion to take action on the voucher list. Mr. Bynoe made the motion to approve the vouchers. Mr. Sneddon seconded the motion. Roll Call: (aye) Bynoe, Sneddon, Avellino, Eckert, Knowles, Lachawiec, Sweeney, Tredy, Bonamassa, Anepete.

Correspondence is available in the board office for anyone wishing to view.

BOARD COMMENTS

Deputy Mayor Tredy commented that Founder's Day was a huge success.

OLD BUSINESS

MSC Enterprises, Amended Final Major Subdivision, Block 57, Lot 13 (now Lots 13.01-13.06), Morey Place Road, Docket No. 06-10-PB.

Mr. Shea, attorney for the applicant approached. Mr. Yost gave an explanation on the applicant's presentation. The original application was denied. It was for an amended site plan that would allow a substitution of lighting in lieu of the acorn lighting that was required by a conditional approval back in 2006. Also, in conjunction with that the applicant had requested relief from another condition where MSC had agreed to contribute \$75,000 toward the maintenance of Morey Place Road. Mr. Yost had discussions after with the applicant's attorney, and Mr. Yost feeling fairly certain that a Prerogative Rit action on the merits, we thought it would be appropriate to

give the applicant an opportunity to come back before the board to see if it could be resolved. It has been noticed that the application is for reconsideration on the vote. Mr. Shea added that the applicant is here tonight for a reconsideration of the denial that was promulgated by the board and made part of a resolution of approval. Resolution number is 11-11-PB, adopted on February 3, 2011. The applicant is asking the board to reconsider only one of the items and that is the waiver requested for the lighting. The applicant has forgone the necessity of going forth requesting a waiver for the \$75,000. The only request is for the waiver of the lights. Mr. Shea referenced the proofs from the previous application. The key point is the letter that was signed by Mayor Kraft on July 31, 2009. Mr. Shea reiterated the background on this letter and referred to equitable estoppel. Mr. Shea asked the board to reconsider its original denial based upon the information presented before as well as the information being presented tonight. Mr. Garofalo is present and will testify if needed.

Escrow issues were discussed between Mr. Shea and Mr. Yost prior to the hearing. Planning Board escrow for professional fees will be paid. Escrow for Alaimo Associates is also being paid tonight however Mr. Shea disagrees with Mr. Yost's interpretation that was made that this escrow should be incorporated as part of this application. This escrow, however, will be held pending the outcome of the Construction Board of Appeals hearing relating to the Alaimo bills only.

Mr. Yost agreed that the key document is A-9 which was the letter on township letterhead reportedly signed by the Mayor. It was either done by him or by his direction. There is a basis for a re-consideration and Mr. Yost feels it is appropriate that the board do that this evening. Mr. Yost explained that regarding the \$75,000, this situation is unique in that as far as the township is concerned that issue is something that was already agreed to in 2006 and then it was reopened. Mr. Yost explained that in the interest of protecting everyone, he felt it be appropriate to have Mr. Garofalo sworn and give testimony.

Mayor Lachawiec spoke about A-9 and the authority and right of the Mayor's office and if they could override the authority of the Planning Board. Mr. Yost spoke about the circumstances of the case. Chairman Anepete stated that the applicant understood that he had an action that allowed him to install the lighting. Mr. Shea reiterated the timeline after the signed letter had been received by the applicant with the Mayor's signature. Mr. Shea spoke about the reconsideration application before the board. Mr. Yost added there was a lot of evidence at the last application but the focus that the court would have on this is did the applicant reasonable rely on the letter. This is now an amended site plan that is now requesting to substitute the colonial post lighting in lieu of the acorn style lighting. Deputy Mayor Tredy asked if the \$75,000 could be brought up again in the future. Mr. Yost spoke that anyone can file for anything but Mr. Garofalo, the principal from the corporation is here and he will go on record so there is a transcript regarding the \$75,000. They have paid \$12,500 toward the first C.O. already. Back in 2006 the board agreed to allow the applicant to pay per C.O. so as not to inflict a financial burden on the applicant. Given the economy, it would be a hardship to get the applicant to pay the entire lump sum up front per Mr. Yost. Plus as you are getting more traffic on the road, you are getting the money contributed to the township to maintain the road. Deputy Mayor Tredy asked about the letter from the applicant under protest when the first \$12,500 was paid. Mr. Yost said that is because the matter was still open the time, but they did fund it. After these proceedings, that letter is released.

Two checks were written by Mr. Garofalo, and checked by Mr. Yost and the board secretary. Secretary will forward to the Treasurer.

At this time Mr. Michael Garofalo, President of MSC Enterprises, approached and was sworn in by Mr. Yost. Mr. Garofalo owns 100% of the business and is authorized to speak on behalf of the corporation. Mr. Garofalo answered that he is not under the influence of any drugs that would affect his ability to understand Mr. Yost's questions or affect his judgment. Mr. Garofalo is completely satisfied with Mr. Shea's representation. Mr. Yost spoke that an argument was made that the agreement in the 2006 resolution to contribute \$75,000 towards the maintenance of Morey Place Road was somehow improper or not legal. That was one of the positions that the applicant had made at the hearings before this board. Mr. Garofalo stated "that is correct". Mr. Yost went on to explain his understanding is tonight Mr. Shea is representing on behalf of the corporation that if the board

resolves this matter tonight according to the previous discussions that Mr. Garofalo is willing to withdraw that from this application. Mr. Garofalo would not be seeking to have that set aside and it is the intention of the corporation to abide by the terms of the original 2006 resolution in that regard. Mr. Garofalo stated that he will not reopen the case. Mr. Shea asked Mr. Garofalo if he understood that he was here solely for the purpose of seeking a reconsideration for the waiver of the lighting only. Mr. Garofalo answered "yes I do".

Vice-Chairman Avellino asked about the testimony of Michele Garofalo in the previous hearings. Mr. Shea answered that she was testifying as a fact witness based upon the conversations that she had. Mr. Yost asked Mr. Garofalo if he in the course of the operation of his business does Mrs. Garofalo perform certain operations for the corporation? Mr. Garofalo spoke that she helps if he asks. She is not an employee but will help out if asked. She will act on behalf of MSC is asked with Mr. Garofalo's authority and authorization. She sent the previous emails at Mr. Garofalo's request and authorization.

Mayor Lachawiec asked if Mrs. Garofalo represented herself in the emails that she did not have any legal standing in the corporation but was only doing so as a favor to Mr. Garofalo. Mr. Garofalo did not know.

A motion was made by Mr. Eckert, seconded by Mrs. Sweeney to open to the public. All in favor: (aye).

PUBLIC COMMENT OPEN

Seeing none.

A motion was made by Mrs. Sweeney, seconded by Mr. Eckert to close to the public. All in favor: (aye).

PUBLIC COMMENT CLOSED

Mr. Yost stated that Mr. James, Mr. Eckert and Mr. Knowles cannot vote as they were not present at the February hearing. Secretary checked and since Mayor Lachawiec had listened to the tape prior, he is eligible to vote on this application.

Mr. Yost suggested that if a motion is a motion to accept the application for an amended site plan approval to permit the substitution of the colonial post lighting which was actually installed in lieu of the original acorn lighting which was required by the 2006 resolution and also to accept the waiver of withdrawal of the original request for the waiver of the requirement to contribute \$75,000 toward the maintenance of Morey Place Road which is the applicant has indicated they do intend to withdraw as testified to by Mr. Garofalo.

Mr. Sneddon made the motion, seconded by Mrs. Sweeney. Roll call: (aye) Sneddon, Sweeny, Avellino, Bynoe, Bonamassa, Anepete. No: Lachawiec, Tredy.

Chairman Anepete stated that although no one is happy with the compromise to differ from the lighting standard, however, in all practicality the alternative would be to very possibly go to court and spend tax payer money on what the Chair considers a losing issue. Mayor Lachawiec feels it set a precedent and hopes the issue does not come in again. He feels the issue should be investigated since no one admits to signing the letter that everyone relied on. Deputy Mayor Tredy added that we all agreed that the letter was fraudulent and that everything thereafter is also fraudulent. Mr. Yost added that if you are copied on a letter that you feel is improper, that is the time to speak up. Everyone agrees that a Mayor cannot countermand a specific condition of a Planning Board resolution. That is not the issue that the board based its decision on. The decision was that there was sufficient evidence that the applicant relied upon that letter without necessarily knowing that. It was on township letterhead. It was copied to other people in the township and there were other emails after the fact that thought the letter was valid and JCP&L thought it was legitimate. There was sufficient evidence that the board certainly although there were problems and were justified in originally having trouble with this but given all the considerations now there is more than adequate evidence to support the boards decision that the applicant

had a good case for detrimental reliance and it made sense to resolve the entire matter. Chair asked who would be authorized to pursue a legal action against a fraudulent document being produced. Anyone can report it. It could be sent to the Prosecutor's office to let them look into.

NEW BUSINESS

Bayfront Marina & Yacht Basin, Preliminary and Final Major Site Plan, Block 181.01, Lot 7, Docket No. 07-10-PB.

Chairman Anepete recused himself and left the meeting. Vice-Chairman Avellino took over chairing the meeting.

Mr. Yost oriented the board on this application. There was a ruling by bankruptcy Judge Michael Kaplan that said that we have to hear this matter. The issue had nothing to do with the application; it had to do with an ordinance that is on the books that says taxes have to be current in order to appear before the board. The Federal Bankruptcy judge issued a ruling to the effect that we were to hear the application and the ordinance conflicted with the federal bankruptcy law. At the time, that motion was discussed in closed session and Mr. Yost wanted to remind the board that as this applicant comes in front of the Planning Board, he is to be treated as any other applicant. The board is also familiar with this particular property because the property (not the applicant) has a history with the Planning Board. The previous application was not completed and that is not this applicant's responsibility. They start from square one.

Mr. Anthony Pagano, Heagen, Pagano and Seems approached and spoke on behalf of the applicant. This subject site was the site previously approved through Resolution 13-06 by Lithotech Inc. That site plan was never perfected. Mr. Pagano is familiar with the site as is the Engineer because they were the professionals that represented Lithotech on the prior application. Tonight there is a new application, a new applicant with the intention of perfecting a site plan. The property has frontage on both Demmy Avenue and Bryant Road. It is in the WD Zone and is 15,643 SF.

Mr. Rob Harrington, East Coast Engineering, approached and was sworn in by Mr. Yost. Mr. Harrington's credentials were accepted. Mr. Harrington spoke of what currently exists on the site. Currently the applicant operates a restaurant, a stone parking area, a paved cul-de-sac on the north side, patio, wooden shed, 2 docks, and outdoor bathroom facility.

Mr. Yost addressed the completeness waiver of the drainage calculations. Mr. McVicar spoke that the applicant has requested this waiver. Understanding that the site almost fully developed except for the minor improvements proposed, Mr. McVicar recommended the board accept the waiver. Mr. Knowles made a motion to waive the drainage calculations for completeness, seconded by Mr. Eckert. Roll call: (aye) Knowles, Eckert, Bynoe, Lachawiec, Sneddon, Sweeney, Tredy, Bonamassa, Avellino.

Mr. Yost marked Mr. Harrington's exhibit as A-1, which is Sheet 2 of 3 Site Plan. Mr. Pagano explained that prior there was significant discussion regarding the bathroom facilities. In the prior application, there were representations that there were no indoor bathroom facilities. The prior applicant had covered over a door and Mr. Harrington was not made aware that there was a bathroom facility indoors. There are bathrooms in the facility and Mr. Pagano wanted board members who were around for the prior application to know this. Mr. McVicar asked if the bathrooms were up to code. Mr. Harrington did not expect them for that requirement and Mr. Pagano made the representation that they will be brought up to code.

The proposed uses for the site are, the restaurant use, the applicant would also like to rent boat slips on a seasonal basis as well as daily rentals. Minor sales of fishing tackle, sodas, etc...would go along with the rental of the boat slips. Applicant's kitchen is small and he would like to propose an external freezer be added to the building on the west side behind the kitchen. It would not extend outside the squared off footprint of the

building. The freezer is 10x10. There is a proposed renovation of the existing shed and extend a roof canopy out from the building so there would be a covered area and a food service bar. Mr. Pagano spoke that although it is not part of this application, the applicant is going to attempt at some point to try and get a liquor license.

Mr. Harrington spoke regarding the variances being requested addressed in Mr. McVicar's letter. Lot size and lot coverage are not variance issues. Impervious coverage 50% is permitted and the site currently exists with 87.5% including the stone parking lot. Deputy Mayor Tredy spoke that he thought the parking area should be paved. Mr. Harrington agreed. If the parking area were to be paved it would create a more impervious surface and create move of a drainage issue on the site. Mr. Harrington continued describing the set-back requirements. There is also a variance requested for the height of the fence within the front yard. The intent is to provide a screen for the nearest neighbor.

Mr. Harrington went through the six design waivers in detail as reviewed in Mr. McVicar's letter. Buffer requirement is as stated above to provide a fence between the commercial property and the residential use. Off-street parking spaces 34 are required where 23 are proposed. 23 refer to the spaces that are physically on the site. There are 7 spaces that are accessed from Demmy Avenue; they extend on to the unpaved portion of the right-of-way. Mr. Tredy brought up that if the 7 spaces in the road were required to be on site then instead of having them perpendicular to the property, they would have to be parallel to the road, only 2 spaces could be used. Instead of 23 spaces, only 16 are 100% on-site. Mr. Harrington commented that the amount they are over the property is approximately 3 feet. Mr. Harrington is also proposing that the Demmy Avenue spaces be for employee parking only. There is additional paved paving in the cul-de-sac. They have made an application to the County Planning Board with a parking layout. June 17th, 2009 minutes were discussed regarding the use of parking spaces on Bryant Road cannot be calculated into the required number of spaces. There is parking available but the applicant cannot claim these spots. Mr. Tredy brought up the dining on the patio and the additional seating needs to be calculated in to the parking. Moving onto the boating slips, Mr. Harrington spoke of 10 transient slips in addition to all the other slips. Mr. Pagano spoke that they are doing their best to create as much parking as possible. Mr. Harrington added that part of the local community walks or rides bicycles to the restaurant. Deputy Mayor Tredy has received complaints regarding speeding in this area. Mr. Sneddon added if a liquor license was ever acquired, this would impact parking as well. Deputy Mayor Tredy spoke that this is a residential zone and parking is a problem. Mr. Pagano clarified for the record that it is a Waterfront Development Zone. Mr. Harrington returned to the Design Comments of Mr. McVicar's letter. Hours of operation are to be 9-11. Number of employees would be 6. There are 2 docks at the site. Mr. Knowles inquired about a curfew or sound ordinance. Mr. Pagano agreed to comply with all sound ordinances. Mr. Taylor asked for clarification on each uses hours of operation. 11:00 PM closing would be the restaurant. 9:00 AM start would be any other operation on the site. The board felt this was a late start for boat rentals. Further discussions regarding the hours of operation took place. Mr. Tredy was concerned about the 11:00 hour due to the residential houses surrounding the restaurant. Mr. Knowles inquired about the expansion of the original coffee shop and any approvals they received to do so. Deputy Mayor Tredy answered that no approvals were received, that is why they are before the board. Applicant would like to have an earlier opening if possible, but since he is not doing the boat rentals now he was unsure of what the market would call for.

Mr. Keith Boyce, 833 Laurel Blvd, Lanoka Harbor approached and was sworn in by Mr. Yost.

Mr. Boyce spoke regarding the hours. If the board would allow and the market called for it, he would open at 5:00 AM with the restaurant open also. Mr. Yost cautioned that anything given to the board remains as evidence.

A-2 – Waretown Fishing article was marked into evidence.

A-3 – Photo “Seafood” was marked in evidence.

A-4 – Small photo – view from cul-de-sac.

The applicant thinks in the 1990's is when the brick patio was built. It was there when the applicant purchased the property. The applicant purchased the property in 2008.

Deputy Mayor Tredy asked Mr. Boyce if he could explain the operation right now to which Mr. Boyce answered "it's a restaurant". Mr. Boyce added he has rental boats in the water getting ready to rent. He has a small rental office and is on standby waiting to get the approval. The applicant testified that he does not have a small marine/sales store. The restaurant is a "bring your own". Mr. Tredy asked if there were singers on the weekend. Mr. Boyce said yes there are. Mr. Boyce testified that he has had no complaints regarding noise. Mr. Knowles asked how it reached this far without approvals. Mr. Yost spoke that we sit as a quasi-judicial body here and hear applications on site plans and variances. Violations of ordinances, there is an enforcement mechanism which is citations by the police department. Mr. Pagano spoke that the previously granted site plan was never perfected by the previous owner. Right now there is a site without a perfected site plan. The facts on the previous site plan are the resolution specifically stated it should not have a marina facility or boat slip rentals. Mr. Pagano stated that the applicant agreed to not rent boat slips because they were using slips for parking and it would impair the parking. Mr. Pagano clarified boat slips rentals not boat rentals. Mr. Boyce wants to restore the site to what it was before: a restaurant, a boat rental facility, small bait and tackle store. Mr. Taylor added that the use may have existed prior, but clearly there was no outdoor dining. The outdoor dining constitutes possibly 100% increase in restaurant use. Mr. Boyce disagreed. There were picnic tables outside prior. Mr. Taylor suggested that that documentation would be important. Mr. Boyce stated the outside seating was there when he purchased the site. Mr. Pagano's point is they are attempting to perfect a site plan and he believes that seating was part of the prior application. Mr. Taylor clarified that even though it may have been constructed by the prior owner, Mr. Pagano is not suggesting that it lawfully exists. Mr. Pagano answered "no, it was an expansion then, it is an expansion now."

Mr. Boyce spoke about having the verbal approval from some of the previous officials of the township prior to purchasing the property. Deputy Mayor Tredy after a brief discussion wanted it to be clear that no one on this board and none of the officials on this board had the applicant ever spoken to. Mr. Boyce answered, "Yes, he never discussed..." Deputy Mayor Tredy spoke on the expansion of the site.

There will be no storing of boats in the off-season. Mr. Boyce explained that he took crab boats and he put benches in them for smaller children. Outside bathroom facilities are left open for the township residents to use.

A break was taken at 9:06. The meeting resumed at 9:17.

After discussion regarding the boat rental and boat slips, crab boats and personal water craft combined there will be no more than 8 registered boats and/or personal water craft available for rental at any time. The applicant asked about kayaks that he recently purchased. Mr. Pagano agreed to the 8, excluding kayaks. A kayak doesn't need a boat slip but kayak renters still need to park their cars. As to comply with the requirement of the 12 slips, the applicant will get rid of 4 of the kayaks. After further discussion by the professionals, the applicant agreed to get rid of the kayaks all together. Garage/storage areas will not be converted and used for the public. Mr. Harrington agreed to comply with Items #5 thru #9 of Mr. McVicar's letter. Lighting - 2 12' tall 100 watt lights proposed. They are the traditional box light. They are on the property line and shine back into the site as apposed to lights on the building that shine away from the site. Applicant is trying not to over light the site and be respectful of the residential neighborhood. There is no lighting on the path from the patio to the outside bathrooms. Fixtures can be changed from high pressure sodium to metal halide fixtures. 10x12 trash enclosure is proposed - open to Bryant Avenue side only. The trash enclosure proposes a 6' high vinyl fence with 4' concrete slab, surrounded by Arborvitae. There is a recycling bin on the site that the county has provided that the county picks up. A gate is suggested and will do if need be however Mr. Harrington spoke that gates tend to get broken so they would propose not installing a gate. Slab will be changed to a 6" concrete slab with reinforcing. Trash is usually picked up twice a week. Grease waste gets picked up by a company that recycles it. The grease barrels are stored in the trash enclosure. Mr. Taylor confirmed that there is no overnight pickup of trash, recycling or grease oil and pickups will always occur after 8:00 AM. Mr. Boyce confirmed. The current company picks up 8:00 or 9:00 AM. If additional picks up are necessary they can do so. Mr.

Boyce thinks he can get a designated time if needed. Mr. Taylor suggested between 8:00 AM and 8:00 PM. Mr. McVicar addressed the gate. It's a maintenance issue.

Mr. Harrington addressed signage. The site currently has a wall mounted sign over the entrance on the north side of the building. Three other smaller signs are also on the property. All the signs on the site do conform to the sign ordinance. The sign in the rowboat will be removed. No additional signage is proposed.

The only change to the site that would affect impervious coverage would be the walk-in freezer; however there is already a concrete pad where that freezer would be going. There is no real change in the overall site condition. The applicant agrees not to pave the parking lot. They are not proposing to pave it and a note will be added to the plan to indicate that. Mr. Harrington is not aware of any ongoing or persistent drainage problems on or near the site. Mr. Boyce spoke there was a flooding issue with a neighbor and when the county put the drain in it solved.

All items under Mr. McVicar's letter "Specific Comments" – notations that have to be made to the plans will be complied with.

Mr. Harrington moved on to Mr. Taylor's review letter. Mr. Taylor asked if any architectural modifications are being proposed. Mr. Taylor proposed getting good architectural detailing. The faux vinyl stone is not in keeping with the maritime theme. The presentation that was in the community impact statement was very attractive. Mr. Boyce stated his intention is to change the siding. Mr. Taylor suggested to Mr. Boyce that it would be important for the board to have an idea of anything architecturally being proposed to the site. It makes sense to present any changes at this time. Mr. Boyce said that he would like to continue improving the site. Mr. Taylor told Mr. Boyce he needs to present to the board the type of architectural details he anticipates improving. Mr. Harrington spoke regarding the NJ Barrier-Free Subcode and the applicant will comply. There are two single occupant restrooms outside. Mr. Taylor suggested reaching out to the Plumbing Sub-Code Official because the increase in occupancy that is generated by your outdoor dining is going to generate an increased need for both male and female toilets within the building itself. This should be done before coming back before the board. It may require reconfiguration of the building or restrooms. No boat storage on land. Outdoor bar would be related to the food and is not a liquor bar. Entertainment would be for restaurant guests. There would not be a DJ, or a cover charge for dancing, etc. Mr. Harrington will look into bollard lighting however as he stated before the applicant is trying not to over-light the site. Mr. Harrington will work with Mr. Taylor to make sure there is enough lighting to meet his requirements. Information such as trash receptacles and benches will be shown on the plan as existing. Parking will now be fully on site. Public parking sign on Bryant Road will be added. If there is going to be a walkway between the guiderail and the parking, there will have to be bollards or wheel stops at Bryant Road. Mr. Harrington will request this from the County Engineer. The trash enclosure proposes a vinyl fence – solid, without gaps. Mr. Harrington will make sure the detail on the plan reflects this. Mr. Taylor added that if the board would want to leave the vinyl fence, then it has to go to the bottom and not leave a gap. There are not a lot of opportunities for landscaping or buffering. One or two street trees are possible along Demmy. Mr. Knowles added that trees can obstruct views. Mr. Harrington added there is a very high water table and salt tolerant/wind tolerant trees would need to be used. He will work with Mr. Taylor. Mr. Tredy suggested that between now and the next meeting the applicant meet with the neighbor along the one fence line to see how they feel about putting buffered vegetation on their property and provide documentation therefore. Mr. Boyce agreed. Mr. Boyce agreed that he would always have a container that has a lid in the trash enclosure. There are lights along the dock currently and Mr. Harrington will attempt to decipher what wattage they are. There are lights mounted on the wood shed that will be added to the plan. Mr. Taylor addressed the "Town Center Streetscape" which would require the acorn fixture. The majority of the areas where the acorns were envisioned were more commercial areas. Deputy Mayor Tredy suggested all the board members visit the site when all the lights are on to get a good visual. Ordinance would require sidewalks on both frontages as well. Sidewalks would be potentially feasible on Demmy. Sidewalk would be in the right of way and they are now proposing to slide all of their parking back onto their site so it would be behind the parking spaces. Mr. Sneddon feels sidewalks would be totally out of character with the neighborhood. Light

base detail will be provided. An easement to the township was discussed as there is a gray area now of what is public vs. what is private and if any of this is to remain truly public then an easement may be necessary. Mr. Pagano stated if necessary it will be done.

Mr. Pagano summarized that a site visit was suggested; applicant would speak with the neighbor, and provide more detailed architectural. Mr. Pagano offered that they will come back with more detail. A list will be provided of what is proposed.

Mr. Yost inquired about the DEP as an outside agency approval and that they had previously issued a notice of violation. Mr. Yost asked for background as to what is happening with this situation. Mr. Boyce dropped off plans two days ago to the DEP to show what is going to be remedied. There were violations from the 1980's when the original dock was installed. The breakwater was about a foot over to the south which was a violation. There was another pier that was 6' wide instead of 4' wide which was removed. The outside dining room is a violation, added by the former owner and Mr. Boyce is in the process of remedying these violations with the DEP. Mr. Boyce added 14 pilings to the dock and changed the configuration and removed the main slip for the 60' head boat. To Mr. Boyce's knowledge they will be dismissing the fines. Mr. Boyce's attorney is working to either get a ruling or an abatement on this.

Mr. Yost cautioned the board not to take testimony from the applicant or neighbors. Any evidence should be presented here. Vice-Chairman Avellino requested the list within the next week so the board members would have for their site inspection.

Deputy Mayor Tredy would like a written list of the current operation as apposed to any proposed operation. Renderings will be submitted. Mr. Boyce will speak to the neighbor about plantings. Deputy Mayor Tredy asked if a study could be conducted on a busy day for traffic and boat traffic. Mr. Taylor suggested a traffic or parking professional that has experience doing mixed use boating and traffic. Mr. Boyce spoke that he has been there for 3 years and the traffic has never flowed to Demmy or Bryant.

Mr. Pagano agreed to waive any time constraints.

Deputy Mayor Tredy requested new aerials and he suggested to Mr. Boyce that the movement of the pole would be paramount for traffic and allow additional parking spaces. Mr. Pagano spoke that they would explore that option. Mr. Taylor also reminded Mr. Pagano that they would reach out to the Plumbing Subcode in town regarding the bathrooms.

A motion was made to carry the application till the July 7th, 2011 meeting by Deputy Mayor Tredy. Seconded by Mrs. Sweeney. Roll call: (aye) Tredy, Sweeney, Bynoe, Eckert, Knowles, Lachawiec, Sneddon, Bonamassa, Avellino.

Mr. Gelanis 9 Heartpence Court, Flemington approached and was sworn in by Mr. Yost.

The board needed to reopen the application for public comment. Mr. Bynoe made the motion, Mrs. Sweeney seconded. All in favor: (aye).

PUBLIC COMMENT OPEN

Mr. Gelanis continued. Mr. Gelanis purchased the lot across the street from the applicant. Mr. Gelanis is concerned with possible parking on Demmy. He also is concerned with the lighting at night.

Mr. Al Delprete, 117 Dollmore Avenue, Waretown approached and was sworn in by Mr. Yost. Mr. Delprete was under the impression that the last meeting he attended with this applicant there would be fence between the

commercial property and the residential property. Mr. Delprete listed what was being stored on the property currently.

A motion was made to close to the public by Mr. Tredy, seconded by Mr. Sneddon. All in favor: (aye).

Motion was made to adjourn to Rita Sweeney, seconded by Mr. Lachawiec. All in favor: (aye).

Meeting was adjourned at 11:07 P.M.

Respectfully submitted,

Beth O'Connor
Secretary